

THOSE REDSKINS.

A Conflict Reported—Two Officers and Fifty Men Are Killed.

The War Department Not Advised, But the Report is Generally Credited.

Gen. Brooke Reports.

Troops Ordered from Texas Are Placed in Rather a Delicate Position—Indians Preparing for Flight.

THE DAY'S MOVEMENTS.

HERMANSBURG, N. D., Dec. 17.—But little word is obtainable from Standing Rock, as an Indian-land non-intercourse rule of the military holds a tight reign over the officials of the military telegraph. All newspapers are cut off from any communication by wire with the agency. The mail driver from Winona this afternoon knew nothing more than was published by his morning papers. It is learned that Capt. Fitch's troops of cavalry did not pursue the retreating hostiles who went up the Grand river. Two troops of cavalry from Fort Lincoln, with three days' rations, start for the crossing of the government trail over the Cannon Ball river about fifty-five miles southwest of here, and will probably establish a camp there. A number of teamsters and wagons were sent from here this afternoon to follow the troops with supplies from the quartermaster's department.

FURTHER PARTICULARS OF SITTING BULL'S DEATH.

ST. PAUL, MINN., Dec. 17.—The Pioneer Press has received from Fort Yates, via courier to Bismarck, full details of the killing of Sitting Bull. The police were in camp over night near Sitting Bull's camp and in the morning, under command of Bull Head, lieutenant, and Shave Head, first sergeant, went in and made the arrest. Sitting Bull expressed a willingness to go with them, but said he wanted to get ready first. The two leaders went with him into his tent, after he had ordered that his horse be got ready. While the old chief was getting ready two bucks wrapped in blankets entered the tent and, throwing off their blankets, opened fire on the police. Sitting Bull's wife set up a howl outside, which seems to have been a signal for the assault. In the fight which followed Red Tomahawk killed Sitting Bull, several of Sitting Bull's followers were killed and Bull Head and Shave Head desperately wounded, and will undoubtedly die. The police were now surrounded, but the military arrived in time to break up the hot skirmish, the Indians took to flight and disappeared in the timber. They will undoubtedly go to Pine Ridge camp. Trouble at Standing Rock agency is now believed to be over. Four police were killed and two mortally wounded. Seven hostiles were killed.

A DESPERATE FIGHT WITH HEAVY LOSS.

ST. LOUIS, MO., Dec. 17.—A dispatch from Denver says the news has been received from one of its couriers that a rancher had arrived post haste at the camp near Rapid City, bringing information that a command of cavalry had been attacked by Indians and two officers and fifty men killed, the Indians were repulsed with heavy losses. The Indians were killed to rout. This report is probably correct, but it is not known whose command it was. It is probably that of Maj. Tupper of the Sixth cavalry and his three troops of 140 men. Our command will march to their assistance.

ARMY HEADQUARTERS NOT ON IT.

CHICAGO, ILL., Dec. 17.—No news received this morning at army headquarters in regard to the reported fight between United States soldiers and Indians near Rapid City yesterday. Adj. Gen. Corbin is inclined to discredit the news. He says a conflict under the conditions mentioned at the time was not on the programme. He feels assured that neither Gen. Miles nor Brooke have any knowledge of such a conflict, else he would have received intelligence of it. If it turns out there was a fight, he says, it will probably prove to have been with a detachment of the Sixth cavalry, under Col. Carr.

GEN. BROOKE'S REPORT.

WASHINGTON, Dec. 17.—Gen. Schofield this morning received a telegram from Gen. Miles, dated Long Pine, Neb., December 16, as follows: Gen. Brooke reports Two Strikes and 184 lodges of about 800 Indians are now encamped at the Battle camp. These, with other Indians at Pine Ridge and Rosebud are all that can be drawn out of the disaffected camp. The others are defiant and hostile and are determined to go to war. He has no hope that any other effort at pacification would be successful. He estimates the number of miles in the hostile camp in the Bad Lands at 250. Gen. Brooke's estimate represents 200 on Cheyenne river and 300 on Standing Rock reservation who could have been liable to call before the death of Sitting Bull, making in all 750 men. All possible means have been exhausted to retain and restrain the friendly Indians on the reservations. The 15,000 Sioux who have been restrained and profess loyalty should have positive assurance with the least possible delay that the government will perform and fulfill its treaty obligations.

No information has been received at the war department in regard to the reported fight in which two officers and fifty men are said to have been killed. The report is discredited at the department.

IN A DELICATE POSITION.

Special to the Gazette.

SAN ANTONIO, TEX., Dec. 17.—A peculiar state of affairs exists in the department of Texas which will make things awkward for a number of officers. Ten days ago the Fifth infantry, scattered all over the state, was, at the request of Gen. Miles, ordered to prepare to take the field. Two days later they were ordered by Gen. Schofield to go to the department of the Platte. Any regiment in the army would have been easier to gather together than the Fifth, and hence it has required over a week to get the companies of the Fifth from the railroad by a forced march of 150 miles. Now that the regiment is ready to move, the order has come to hold them in readiness for further orders, and it is believed it will not leave Texas at all. In the meantime Gen. Stanley has relieved the officers of the Fifth of the positions they held at their posts, as they were about to depart, and appointed others from the Eighteenth and Twenty-third regiments. New commanders of Forts Bliss and Ringold and recruiting officers at the posts where the Fifth was stationed, have been named. As the Fifth will probably not go away those appointed will be placed in a delicate position, and all the expense of equipping the

regiment for the field will have been wasted.

CAUSE CELEBRE.

DICKINSON, N. D., Dec. 17.—A courier arrived here last evening with news from Capt. Fountain, in command of the Eighth cavalry. The regulators left this point shortly after sunrise yesterday morning with rations sufficient to last until Saturday. The troops had no men yesterday, and camped last night on the banks of the Cannonball river near New England City.

Teamsters from the south report that Indians are encamped at White Butte. It is evident they are preparing for flight to the British possessions, in the hope that they will not be molested there. The cavalry moved southward at daybreak to-day, and hope to intercept the savages before nightfall. They are about fifty miles away.

A detachment of infantry was ordered to march this morning. It will take a train westward and guard all passes along the Little Missouri through which the reds would be likely to make an attempt to escape.

The fugitive Indians from Grand river camp are being pursued by Lieut. Casey's Cheyenne scouts.

BURIED ALIVE.

The Sickening Story of a Human Being Buried Before Life Was Extinct.

An Awful Scene Disclosed on the Opening of the Grave—The Coffin Split in the Death Struggle.

Special to the Gazette.

DENVER, COLO., Dec. 17.—A horrible story of a man being buried alive, while supposed to be dead, is published here. On Sunday, November 30, Louis Brenner, thirty-five years of age, an employee of the South Park railway shops, was supposed to have died from over indulgence in malt stimulants. His funeral was set for December 2, under the auspices of one of the local tribes of red men. There was nothing unusual about the services until the coffin body was placed in the hearse. Then for some reason the horses which had been used for this purpose for years refused to go and became so unruly that they had to be driven away by a team of men. When the cortege was ready to move the horses of Henry Speck, one of the mourners, positively refused to move and he was obliged to procure another animal. To add to the list uncommon and uncanny events a runaway team crossed the funeral procession on the way to the River. A buggy containing two of the friends of the deceased. The men escaped injury, but the buggy was badly damaged. Arriving at the cemetery the coffin was dropped from the hearse by blundering attendants, to the disgust of the mourners. Another and more sickening accident awaited. As the coffin was being lowered into the grave one of the ropes broke, and for a moment the people were horrified by seeing the coffin standing on end in the grave. According to the burial services of the red men it is provided for the liberation of a dove from a small box

just as the first handful of dirt is thrown into the grave. This was finally done. After the coffin had been properly placed in the grave, with a feeling akin to superstitious terror some of the mourners saw the dove flutter from its cage and alight at the very edge of the grave. It would not take whiffs of frightened air away from the men who piled the dirt over the narrow home of the deceased. There were unusually thoughtful faces in the procession that wended its way slowly from the city of the dead. The more superstitious began to ponder over the matter, and finally decided to disinter the remains. This was done one week ago last Sunday, and to their unspeakable horror they discovered as soon as the lid of the coffin box was raised that the coffin itself was split and the glass in

THE COVER WAS BROKEN as if the dead had come to life and in the unutterable agony of a resurrection the coffin had struggled with the mad desperation of hopelessness and helplessness to free himself from the very grasp of a death whose horrors can be but feebly imagined by the living. The coffin lid was raised and the full horror burst upon them. The body was lying on its face. The linings of the coffin had been torn out and the hair was pulled out of the head. The arms were bent and the hands so tightly clenched that the finger nails had been sunk into the flesh. The face of the dead was distorted from the awful struggle through which the man had passed, and the cheeks showed that in his frenzy the man entombed alive had dug his nails deep into his flesh. Horror-stricken at the discovery they had made, the friends first made sure that life was indeed extinct and then replaced the lid of the coffin, refilled the grave and left the place.

RAISED THE FRACTION.

The Figures on Cotton Tickets Raised from 3-1-4 to 3-3-4—Buy and Horse Arrested.

Special to the Gazette.

BONHAM, TEX., Dec. 18.—W. M. Belcher, a farmer living fifteen miles south of this city, sold cotton to Joe Moss, one of our cotton buyers. The tickets were made out for 8½¢ and Belcher changed them to 8¼¢. He cashed them at the cashier's office and left the city. As soon as discovered, a complaint was filed charging him with forgery. Deputy Sheriff Holland went after him and caught him man and placed him in the care of Sheriff Chaney.

To-day Sheriff Chaney received a letter from the sheriff of Raines county telling him to look out for a boy fifteen years old riding a black pony mare, and to arrest him, but not put him in jail until his father arrives. Sheriff Chaney caught his boy this morning, and has him now in charge of a special deputy, awaiting the arrival of his father.

Struck by a Cannon Ball.

Special to the Gazette.

BIVENS, TEX., Dec. 18.—Lee McAdams, a young man working at Bivens, Venable & Co.'s planing mill, was struck and fatally injured by the Texas and Pacific fast cannon-ball train No. 5 at this place to-day. He is supposed to have been drinking and went to sleep sitting on the ties.

The original Webster Unabridged Dictionary and the Webster's Unabridged Dictionary shipped, prepaid express office nearest the subscriber.

Attorney-General Hogg's Argument on the International Bond Case.

Clear Presentation of the Case on Behalf of the State—Reasons Why the State Should Intervene.

Special to the Gazette.

TYLER, TEX., Dec. 17.—Following is a verbatim report of Attorney-General Hogg's argument on the International Bond case, delivered before the supreme court at Tyler yesterday. It is a clear presentation of the case on behalf of the state, and sets forth in formidable array the reasons why the state should intervene as an intervenor, and why the bonds should be declared invalid. It is as follows:

Argument of Attorney-General J. S. Hogg in the supreme court at Tyler, in the case of the State of Texas, appellant, vs. the Farmers' Loan and Trust Company, appellee, and Great Northern Railroad Company, appellee.

STATEMENT OF THE NATURE AND RESULT OF THE ACTION.

This was a suit instituted in the district court of Smith county, Tex., March 18, 1893, by the Farmers' Loan and Trust Company as plaintiff against the International and Great Northern railroad companies, to recover the sum of \$10,348,000 due upon certain second mortgage bonds alleged to have been issued and sold by said railroad company and applied to the construction and operation of its road, and to foreclose the mortgage upon all the property and franchises of said company alleged to have been executed by said company to plaintiff as trustee to secure the payment of said bonds.

There was a prayer for the appointment of a receiver, and receivers were appointed to take charge of and operate the mortgaged property under the direction of the court during the pendency of the case; prayer for judgment for amount and for foreclosure of mortgage and sale of the property to satisfy such judgment, and for costs of suit and general and special relief.

The defendant company on September 20, 1889, answered by general demurrer and general denial. On September 6, 1890, the state of Texas was by order of the court permitted to intervene in said case.

Admitted as a party to the action, the state by its plea of intervention challenged the validity of the bonds issued by the International and Great Northern railroad companies, and prayed that they be cancelled; that the owners and holders be prohibited from negotiating the bonds; that the state be appointed receiver of the property, and that the receivers be restrained from paying them; and for general and special relief.

On February 18, 1890, plaintiff filed exceptions to the state's plea of intervention and moved to strike out of the pleadings the state's plea of intervention, and the court, upon a hearing of plaintiff's exceptions and motion to strike out of the state's plea of intervention, overruled the same and permitted the state to remain a party to the action.

The case was thereupon continued to the fall term 1890.

On October 6, 1890, the case being called for trial, plaintiff moved the court to take a nonsuit, which was refused, and the court directed the plaintiff to pay all costs of the proceeding and all the other parties to go hence without cost, to all of which the plaintiff assented, and then and there objected and protested, and asked to be heard on its plea of intervention, which being refused, the plaintiff moved the court to give notice of appeal to the supreme court of Texas, filed its bill of exceptions and assignment of errors, and now brings the case to this court for review.

ARGUMENT.

The first question to be considered here is, did the court below in its decision in favor of the plaintiff take a nonsuit over the protests and objections of the intervenor? Adhering to the strict language of the case, the court said, "No plain written evidence should have the right to rely on with implicit confidence for its protection, there should be no doubt, but the court violated the law in dismissing the case. It expressly says that at any time before the trial the court may take a nonsuit, but it shall not thereby prejudice the right of an adverse party to be heard on its claim for affirmance of relief. The plaintiff's motion for a nonsuit referred to in the statute is not defined nor limited to any particular conditions. A plaintiff may take a nonsuit at any time before the trial, and his right to have that claim heard and determined by the court is not to be denied in the face of express statute. The facts, when developed before the court or set out in the pleadings, justify the merits of such claim. Then, it seems, this court in passing on the question raised would have to consider the merits of the claim, and an adverse party in the case asking to be heard on a claim for affirmance of relief. Second, was that claim prejudiced by the nonsuit? The pleadings clearly show that the state was seeking affirmative relief in the case by cross-demand on the plaintiff, and that the court in permitting the nonsuit shows that the state was denied the right to have its claim heard and determined by the court. The plaintiff's motion for a nonsuit referred to in the statute is not defined nor limited to any particular conditions. A plaintiff may take a nonsuit at any time before the trial, and his right to have that claim heard and determined by the court is not to be denied in the face of express statute. 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